



**HASBANI &  
LIGHT, P.C.**  
ATTORNEYS AT LAW

Seth D. Weinberg, Esq.

450 Seventh Ave, Suite 1408  
New York, New York 10123  
T. 212.643.6677  
F. 347.491.4048  
sweinberg@hasbanilight.com

June 23, 2020

**VIA CM/ECF**

Judge Cathy Seibel  
United States District Court, S.D.N.Y.  
Hon. Charles L. Brieant Jr. Federal Building and Courthouse  
300 Quarropas Street  
White Plains, New York 10601  
Attn: Chambers of Hon. Judge Cathy Seibel

**RE: *Windward Bora, LLC v. Sotomayor et al.*,  
Case No.: 7:19-cv-04503-cs  
Response to Defendant's Letter Dated June 18, 2020**

Dear Judge Seibel,

We represent the plaintiff, Windward Bora, LLC ("Plaintiff") in the above referenced matter. We write in response to defendant, John Sotomayor's ("Sotomayor") letter dated June 18, 2020, and not yet filed on ECF (the "Letter"). For the Court's convenience, a copy of the Letter is attached hereto as **Exhibit A**. In the Letter, Sotomayor once again, incorrectly attempts to oppose Plaintiff's First Motion for Summary Judgment with an opposition by letter. In addition to the fact that this Court has already informed Sotomayor that this form of "opposition" is improper and advised him of the form of acceptable opposition, it is also almost three months late. Accordingly, this Court should reject this Letter, consider Plaintiff's First Motion for Summary Judgment fully briefed and unopposed, and issue a decision in Plaintiff's favor.

In accordance with Individual Part Rule § 2(A), Plaintiff filed a letter request for leave to file a motion for summary judgment on November 13, 2019. *See* ECF Dkt. No.: 69. Sotomayor interposed a responsive letter on November 27, 2019. *See* ECF Dkt. No.: 71. Following the pre-motion conference held on December 4, 2019, this Court ordered that Plaintiff submit its Motion for Summary Judgment by January 15, 2020 and Sotomayor interpose opposition by March 15, 2020. *See* ECF Minute Entry dated December 4, 2019. On January 13, 2020, Plaintiff filed its First Motion for Summary Judgment. *See* ECF Dkt. Nos.: 72 and 73. Plaintiff was notified of a filing error by the Clerk on February 5, 2020, and refiled its First Motion for Summary Judgment on February 6, 2020. *See* ECF Dkt. Nos.: 74 – 79.

On February 27, 2020, Sotomayor interposed a letter requesting dismissal of this matter. *See* ECF Dkt. No.: 79. That same day, this Court issued an electronic order advising Sotomayor that he "cannot oppose a summary judgment motion by letter. He must submit a sworn declaration or affidavit containing any facts he wished the court to consider and must authenticate and documents as true and correct copies." *Id.* The Court also directed that Plaintiff re-serve Sotomayor with its First Motion for Summary Judgment no later than March 2, 2020 and Sotomayor must interpose

opposition no later than March 30, 2020. *See id.* Plaintiff complied with this directive and reserved Sotomayor with its First Motion for Summary Judgment on February 28, 2020. *See* ECF Dkt. No.: 82.

On April 14, 2020, Plaintiff advised this Court that it had not received opposition to its First Motion for Summary Judgment. *See* ECF Dkt. No.: 83. On June 1, 2020, Sotomayor filed a letter attempting to advise this Court that the matter was stayed due to the COVID-19 pandemic. *See* ECF Dkt. No.: 84. That same day, Plaintiff responded to Sotomayor's June 5, 2020 letter explaining to this Court that this matter is not stayed as a result of the COVID-19 pandemic and asking this Court to issue a decision on Plaintiff's Motion for Summary Judgment because the motion was fully briefed as Sotomayor's deadline to interpose opposition passed more than two months earlier on March 30, 2020. *See* ECF Dkt. No.: 85.

On June 18, 2020, Sotomayor interposed the Letter as "opposition" to Plaintiff's First Motion for Summary Judgment. *See* **Exhibit A**. In addition to being woefully untimely because the Court set a deadline of March 20, 2020 for opposition, Sotomayor once again failed to interpose a sworn declaration or affidavit containing any facts he wished the court to consider. *See* ECF Dkt. No.: 79. He also failed to authenticate any documents as true and correct copies despite the Court's direction. *See id.*

Accordingly, Plaintiff requests that this Court reject Sotomayor's Letter because it is untimely and improper opposition to Plaintiff's First Motion For Summary Judgment. Plaintiff also requests that this Court consider Plaintiff's First Motion for Summary Judgment fully briefed and unopposed. Finally, Plaintiff requests that this Court issue a decision.

Please do not hesitate to contact us with any questions.

Respectfully,

/s/ Seth D. Weinberg

cc: **VIA US MAIL**  
John Sotomayor  
*Pro Se Defendant*  
2359 Maple Avenue  
Cortlandt Manor, New York 10567